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HEARINGS

Before The

SUBCOMMITTEE ON AIR AND WATER POLLUTION

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

*Buckley Proposal*

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## EXECUTIVE SESSION

THURSDAY, SEPTEMBER 23, 1971

United States Senate

Subcommittee on Air and Water  
Pollution of the Committee on  
Public Works

Washington, D. C.

The subcommittee met at 10 a.m., pursuant to call, in room 4110, New Senate Office Building, Senator Jennings Randolph (chairman of full committee) presiding.

Present: Senators Randolph, Muskie, Jordan, Tunney, Bentsen, Cooper, Boggs, Baker, Dole and Buckley.

Also present: M. Barry Meyer, chief clerk, Thomas C. Jorling, minority counsel, J. B. Huyett, Staff Director, and Leon G. Billings, Professional Staff.

Senator Randolph. I suggest that there are now five of us present. Senator Jordan has been here and I will ask you, Ed, if you will be in charge at this time. I will be back in five or ten minutes.

Senator Muskie. I suggest that we go to Senator Buckley's proposal. We have before us the modified form. I just say it this morning but I am perfectly willing to go ahead. It seems to me it can be broken down into several elements which we can at the appropriate time consider and act upon. So why don't you,

1 Senator Buckley, proceed.

2 Incidentally, I would like to suggest at the outset that at  
3 the conclusion of our deliberations today that we go over to  
4 next Wednesday. The staff tells me they need some time to work  
5 on the implementation of the discussion that we have had up to  
6 this point and I would like to dispose of the Buckley thing today,  
7 if we could.

8 That would then give the staff a real opportunity between  
9 now and next Wednesday to move forward in those areas and then we  
10 when we come back next Wednesday, we might well consider inviting  
11 Mr. Ruckleshaus to come to discuss this whole question of the  
12 Refuse Act and the no discharge objectives that we have consid-  
13 ered.

14 So we have had the discussion on the staff level but I  
15 think we have reached the point where it would be helpful to  
16 have Mr. Ruckleshaus come before the full committee and with  
17 that discussion we can resolve the whole issue raised on the  
18 water quality standard.

19 It seems to me that is a sensible program and I would like  
20 to suggest now if there is no objection, why don't we go ahead.  
21 I would like, if we could, and I don't know yet whether my own  
22 schedule can accommodate this, to schedule a full day, Wednesday,  
23 if possible, so that we can do that. I will let you know about  
24 that.

25 But in any case, we will meet Wednesday morning. Go ahead.



1 Senator Buckley.

2 Senator Buckley. I distributed much too late to do any  
3 good, I'm afraid, a memorandum describing the thought processes  
4 and the proposal which I would like to make which is a modifi-  
5 cation of what I have been talking about in the last week in  
6 which we would preserve the basi 30 percent Federal grant.

7 It seems simpler and more effective for many reasons. It  
8 would not require a calling of a halt, an interruption of the  
9 programs now worked on.

10 If I may, Mr. Chairman, I would like to have the memorandum  
11 introduced into the record.

12 Senator Muskie. Yes, of course.

13 (The information referred to follows)

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1 Senator Buckley. To review the thinking that lead to the  
2 proposing of an alternative, we have one problem and that is  
3 that this particular legislation is not legislation which is  
4 all carrot which is designed to induce local and State govern-  
5 ments to implement policies which Congress may deem desirable.

6 We are stating that by such and such a time we will have  
7 achieved certain results in water quality and this means that  
8 in the last analysis, there has to be some way of requiring  
9 independent jurisdiction.

10 Now, existing legislation has gone the carrot route. We  
11 have had a formula which basically offers a 30 percent to 50  
12 percent Federal contribution to induce the states to come up  
13 with another 25 percent which, in turn makes it that much easier  
14 for the local government to proceed.

15 We have found under actual experience, at least up until  
16 the time when the state obligation was alluded to merely alone,  
17 that a significant number of states have not responded and also  
18 a number of localities have not gone forward.

19 We have heard testimony from State officials and so on  
20 which have emphasized that several factors that make it not at  
21 all certain that the inducements, the added inducements incor-  
22 porated in the subcommittee print would guarantee anything like  
23 100 percent cooperation down the line.

24 In the first instance, many municipalities just plain would  
25 rather not go forward on this kind of project because they have

1 have other things they want to do. It is not a question of their  
2 capacity to go forward, but rather their "druthers".

3 Also we have a situation where there are those who believe  
4 that the mere fact that the Federal ante would have been sub-  
5 st. tially increased would in turn induce people to do in their  
6 heels a little harder and wait a little longer in the hope that  
7 one would ultimately reach the p int that Senator Nelson is  
8 now, urging, namely, a 90 percent and 10 percent funding.

9 This suggests two things. Number 1, if the Federal govern-  
10 ment is in fact going to require these other levels of Government  
11 to cooperate or rather if it is going to require that there be  
12 constructed across the country sewage treatment facilities  
13 meeting Federal standards so that the discharge into receiving  
14 waters will also meet the Federal standards that we ought to  
15 face up to the fact that the Federal Government is goi g to have  
16 to be prepared to offer the financing of the non-federal share

17 Now, we have discussed part of the problem in connection  
18 with the EFAs. The EFA would help only those communities which  
19 do not have the credit rating and so on with which to go into  
20 the market and borrow the funds to do their share of the job.

21 We do know that many of these communities are under statu-  
22 tory restrictions and so on which make it impossible for them  
23 in any event to go forward until and unless there are some dras-  
24 tic adjustments in local ordinances, state and local and the  
25 rest of it.

1 Another factor in the subcommittee print, part of this has  
2 been clarified incidentally as of today, which could have caused  
3 concern to the people in New York State anyway, with whom I  
4 have discussed the implications of the subcommittee print, was  
5 that which had to do with what appeared to be the implication  
6 of the earlier print which would require the setting up of  
7 current cash reserves to enable expansion to take place, to  
8 anticipate expansion and provide the funds for expansion and  
9 also a magic word called "replacement."

10 The initial interpretation that seemed to be widespread was  
11 that replacement involves something substantially more than  
12 depreciation, it meant setting aside the money in the form  
13 of sinking funds in some of them, which would have cash in the  
14 kitty available for modernization and substantially junking of  
15 one and going on to another which again threw in a substantially  
16 larger, would increase the amount of the user charges that would  
17 have to be currently charged in order to meet the requirements  
18 of the bill.

19 The EPA came through this morning with an interpretation of  
20 the word "replacement" which says that replacement is nothing  
21 other than normal depreciation. So that has eliminated that.  
22 But still there is the requirement for sinking funds for expansion  
23 and many State ordinances, I understand, prohibit the  
24 setting up of the sinking fund.

25 In other words, we seem to have been headed in a direction



1 that would do violence to the normal way the states go about  
2 financing this kind of operation. So that the proposal which I  
3 am talking about now is an attempt to, number one, conform with  
4 existing practices which is to borrow in the first instance the  
5 money you need to build this equipment, have your user charges  
6 serviced that way, plus the operating and maintenance and normal  
7 depreciation costs, in contrast with a system as interpreted  
8 in the subcommittee print which would have you borrow, have state  
9 State, local and Federal government put up 100 percent of the  
10 cost and then institute a system which would of course be borne  
11 by current users through taxes and at the same time put a layer  
12 on top of that, a system of user charges which would be antici-  
13 pating the next capital improvements thereby in effect doubling  
14 up a portion of the cost.

15 So that any way we have come up with a proposal which con-  
16 tinues the basic 30 percent Federal contribution in which the  
17 Federal government would be willing to finance the balance of  
18 17 percent upon assurances that there are user charges which  
19 would service the debt and maintain and operate the plant.

20 We also have inserted a proposal that there be explicit  
21 ultimate authority placed in the Federal Government to proceed  
22 with the construction of any plant in the event the municipalities  
23 do not come up with the financing, the technique and so on in  
24 order to proceed with a portion of the State implementation plan  
25 which is required in order to meet the standards.

1 I have tried to get figures, and I wish I had better figures,  
2 as to what the implications of this proposal would be. These  
3 figures, incidentally, New York State gave us a whole set of  
4 projections but some of the input does not necessarily reflect  
5 the meaning of this legislation.

6 But late last night an economist with EPA got his slide  
7 rule out and based on the rules of thumb which have been evolved  
8 has come up with this series of figures. Now, this is based on  
9 a \$12 billion annual charge to go forward with a \$12 billion  
10 program.

11 The first is what we call original cost and interest presup-  
12 poses that each of the levels of government, local, state and  
13 Federal, have borrowed the money. So we can get a truer picture  
14 of cost.

15 On the top line in the middle you have O & M, D and EX.  
16 That is Operation and Maintenance, depreciation, which is a  
17 factor of I think about 4 percent which apparently is the stan-  
18 dard they use, and expansion is a factor of a little better  
19 than 3 percent per year.

20 You will notice AR with a question mark. That is intended  
21 to reflect the fact that our understanding of the word "replace-  
22 ment" meant is something more than depreciation. If this  
23 morning's definition submitted by the EPA is acceptable to the  
24 committee then that question mark disappears, it is no longer  
25 a factor.

1       Projecting these figures out we have an annual charge to  
2 local government of \$95 million, Federal government \$355 million  
3 and we have user charges under that of \$440,000 to non-industrial  
4 users and \$795 million to industrial users.

5       However it should be kept in mind that non-industrial users  
6 are also local and State taxpayers. So if you are talking  
7 about the impact on the states and localities I think you really  
8 gave to add in those figures or add at least the \$95 million  
9 into the direct user charges.

10       Under the proposal now being discussed, we do not have a  
11 figure for expansion because expansion would be handled at the  
12 time the expansion occurs and you would have enough additional  
13 users in the line to handle the cost and interest payments on  
14 that, there would probably be very little impact in terms of  
15 charge per household.

16       But in any event you will see that the Federal government's  
17 annual cost is significantly lower by about \$70 million and you  
18 will see that on the right-hand column, well, your total costs  
19 your total cost is less. You do not have any direct cost on the  
20 local government and state government but of course those costs  
21 are reflected in the user charges.

22       Your industrial user charges are down, your non-industrial  
23 charges are up but presumably the property taxes will be down.

24       Senator Baker. Is the reduction the difference between  
25 1774 and 1827 the elimination of the expansion factor?

1 Senator Buckley. It comes pretty close to it, yes. So in  
2 effect this is a trade-off. Having eliminated what a lot of us  
3 thought replacement meant we are basically -- the things are a  
4 pretty close trade-off.

5 But it does have a system which does not require sinking  
6 funds, it is a system which is more in accord with the current  
7 practice, it is a system that reflects true costs and places  
8 them on the user which was the ultimate objective of the committee  
9 print. As I say, the overall proposal does provide the mechanism  
10 to make it impossible in the last analysis for our objective to  
11 be sabotaged by the reluctance of the communities to go forward.

12 Senator Bentsen. The Federal government would go in and  
13 build the plant if they did that?

14 Senator Buckley. Yes. Now I personally don't ever like  
15 the Federal government to do anything at the local level, but  
16 philosophically I think the Federal government has business  
17 worrying about sanitation in the first instance.

18 To achieve those standards requires that the emissions in  
19 the sewers be treated up to a certain level. What happens if a  
20 municipality plain refuses to appropriate the money, borrow the  
21 money, or in the alternative go out and has a referendum to  
22 approve the added debt to do this and the voters say no, do you  
23 put the voters in jail or say too bad all the people down below  
24 you will suffer from this?

25 It would not be an obligation of the community. If there



1 is a default the Federal government would take possession of the  
2 plant and operate it. But it would not be imposing debt on the  
3 communities.

4 Senator Muskie. I wonder if I might by way of analysis  
5 raise the questions in my mind. The first issue raised, it seems  
6 to me by the proposal, is the extent to which the Federal govern-  
7 ment should contribute to the original cost.

8 The issue raised is whether or not a 70 percent of the  
9 original cost of catching up on the backlog, that is what we  
10 are talking about, backlog, should be borne by users or should  
11 be borne by society as a whole through the mechanism of the  
12 Federal government, Federal, state and local.

13 I think that is the first issue. In the Buckley proposal,  
14 the proposal is the Federal government should be 30 percent and  
15 70 percent should be borne by the local users to catch up with  
16 that.

17 So I think the issue there is still whether or not the  
18 Federal share of the original cost should be increased in accor-  
19 danc with the provisions you will vote on in due course. There  
20 is no principle involved. It is a question of the extent.

21 The principle involved is where should the burden fall.  
22 And I still believe the 70 percent is too heavy a burden if it  
23 causes the backlog to flow to the local user. The local user  
24 is the same taxpayer but he has user fees or local tax, or pro-  
25 perty taxes.

1 The burden of local taxes is already too great, that is my  
2 view. So I would take the view that whether or not we accept  
3 the Buckley proposal that the Federal share should be increased  
4 in the subcommittee print.

5 Senator Baker. If you don't mind, say that again.

6 Senator Muskie. I say whichever mechanism you take from  
7 now on that the Federal share of the original cost should be  
8 increased in the subcommittee print. Now, we will both accept  
9 the principle that the Federal government ought to subsidize the  
10 original cost so we are right back where we started from, what  
11 should be the Federal share.

12 The second issue, and this is really a question, is whether  
13 we mandate the financing of the other portion of the cost, 70  
14 percent or whatever it is, by this means or leave it to local  
15 option to decide whether or not they will use this financing  
16 mechanism or another.

17 Senator Buckley. My proposal was not intended to require  
18 but rather this was available.

19 Senator Baker. Except I take it to the extent that it  
20 might be required in case there had to be Federal intervention  
21 to compel performance.

22 Senator Buckley. Exactly.

23 Senator Muskie. The third issue raised is what should  
24 user charges cover and that is a question to be answered  
25 whichever method is adopted. It is for us to decide. I take

1 it if we are to compare the two then, I take it we should compare  
2 apples and apples and not apples and oranges.

3 I don't think there need be a difference here between the  
4 two proposals, it is a decision for us to make of what the  
5 user charge covers. So I don't think the institutional mecha-  
6 nism matters in that.

7 Thirdly, I take it that by replacement we will reach agree-  
8 ment whichever institution method is adopted what replacement  
9 means and to what extent it should be covered by user charges  
10 and not fully covered what other means for funding it and finan-  
11 cing it will we take.

12 So in either case that has to be a separate issue apart  
13 from the institutional means. I think the real tough issue to  
14 be discussed by us, and I think it is the principle issue raised  
15 from an institutional point, by this whole Buckley proposal,  
16 is the extent to which the Federal government is going to move  
17 in and build plants.

18 Now, Senator Buckley, I think in the fourth page of his  
19 memorandum has correctly identified many of the limitations,  
20 the ability of local governments whether they are tapping their  
21 constituencies as users or as taxpayers to build and fund waste  
22 treatment facilities.

23 The communities own concept of its priorities, unwillingness  
24 to go to the voter for authorization of new debt issues, or  
25 technical impediment imposed by statute or by State constitution

1 with respect to debt or interest ceilings.

2 Those would apply to Senator Buckley's arrangement. I  
3 don't think the adoption of the Buckley proposal would wipe away  
4 those impositions or restraints. It would not wipe away the  
5 restraints, the extent to which those restraints exist by adopting  
6 the Buckley proposal, we would be saying that in every instance  
7 where these restraints exist, the Federal government would be  
8 the builder of the waste treatment facilities.

9 Now, we have always faced the problem of what do we do to  
10 areas where waste treatment facilities are not because of legit-  
11 imate reasons, and I think most of them are identified by the  
12 Buckley memorandum, what do we do?

13 Do we indeed force the Federal presence on them or do we  
14 by using other approaches, that is the requirement that we use  
15 effluent limitations and effluent limitations on it or that if  
16 the water quality standard is adopted we could move in that  
17 direction? It has been a constant discussion.

18 I discussed it again with Leon this morning because to me  
19 there is no evidence that communities will fully arbitrarily  
20 refuse to move forward with this program. The limitation that  
21 Senator Buckley has identified, are we in fact prepared to have  
22 the Federal government move into that area and I submit that if  
23 we decide that we should, we can do that much without adopting  
24 this, we can get the Federal presence in by the form of an out-  
25 right grant or by financing of loans.



1 If the Federal government is going to move in and assume  
2 te authority which we will have to grant her, in fact if we tax  
3 the local citizens with user fees, that is a pretty drastic  
4 change in the relationship of the local, State and Federal govern-  
5 ment because that is what the Buckley Proposal really is, the  
6 Federal government would move into these communities, set up  
7 corporations, with taxing authority, to decide where the plant  
8 is going to be located, wh t kind of plant it is going to be,  
9 and impose user charges upon the local taxpayers, commerical and  
10 non-commercial.

11 We can do that as a separate item in the subcommittee. We  
12 are not adopting all of the institutional arrangements. So  
13 I don't really see that much difference between the issues raised  
14 by the subcommittee print and the issues raised under the Buckley  
15 proposal.

16 I think the principle difference, really, if we answer all  
17 these other questions one way or another, the principal dif-  
18 ference is the extent of the Federal subsidy of the original  
19 plan.

20 Now, with respect to these figures, it seems to me there  
21 is no difference, they wash out. the ohly minor differences I  
22 detect is that under the committee print the industrial user  
23 charge is estimated at \$255 million, under the Buckley proposal,  
24 \$226 million.

25 Why that \$29 million difference in favoz of the industrial

1 user, I don't know. With respect to the original cost, you  
2 estimate \$947 million for the committee print and \$934 million  
3 for the Buckley print, there is no explanation of the difference.

4 I am talking about the original cost problem, \$947 million  
5 and the committee print \$934 million for yours. Under the next  
6 column you have just addressed yourself to the difference, \$880  
7 million, the committee print is \$840 million, and your proposal,  
8 which I take it assumes a \$40 million annual charge to cover  
9 expansion, I don't know what the support for that is, whether  
10 \$40 million is a legitimate figure for estimating.

11 Senator Buckley. This is based on 3 point some-odd per  
12 annum. These are, of course, rounded off.

13 Senator Muskie. On the question of expansion and how we  
14 provide for it the question arises in either case. That is my  
15 reaction to the proposal. To the extent that it raises the  
16 issue of what we do in this matter if in spite of the require-  
17 ments of the water quality standards, in spite of the incentives  
18 we provided, in spite of the support we provide the community  
19 still will not or is unable to move forward, that is a legiti-  
20 mate question.

21 That is my reaction to it.

22 Senator Buckley. I think there are really two elements  
23 instead of one. The other one is ought in the last analysis the  
24 Federal government be a financing agency, because that is  
25 short of moving in and taking over in desperation.

1 Senator Muskie. On that issue, there is no difference  
2 here.

3 Senator Buckley. EFA is limited to those instances where  
4 the community is unable to do financing at a reasonable rate.  
5 Mine would be that since a community might prefer not to get the  
6 authorization of a new bond issue.

7 Senator Muskie. You can broaden EFA. Those suggestions  
8 are not raised in connection with EFA. The difference between  
9 EFA and your proposal is that EFA does not provide subsidized  
10 interest, yours does. That is a legitimate issue. We could  
11 modify EFA to provide that.

12 q Of course, the local share of the cost is smaller in the  
13 case of EFA.

14 Senator Buckley. And the philosophy of what to do with  
15 user charges.

16 Senator Muskie. If we can agree on user charges and what  
17 that definition ought to be under either proposal.

18 Senator Tunney. I just wonder if you could explain what  
19 the political impact would be at the local level. Let's say  
20 that a city council is very deeply concerned about their own  
21 political survival because taxes have been going up for schools  
22 or whatever it might be, so here suddenly the Federal government  
23 comes and tells them they have to clean up the water waste adja-  
24 cent to the city and they have to put in limitations and there-  
25 fore they are going to have to construct some sort of a waste

1 disposal system.

2 Now, the city council has the opportunity to evaluate the  
3 way they are going to finance it and now forgetting the sharing  
4 of whether the Government puts 30 or 70 percent, would you  
5 explain as a practical political matter what the impact would  
6 be on the city council by your proposal as opposed to the sub-  
7 committee proposal?

8 Senator Buckley. I don't think there is anyone in the room  
9 or in the Senate who is less qualified to talk about the problems  
10 of a city council. I have never had any experience. I have  
11 been told this, that there are times when the city fathers just  
12 plain don't want to go to the public and say "authorize another  
13 bond." This would be a very strong feeling depending on the  
14 flow of elections.

15 Under those circumstances they have an alternative source  
16 of funds, as I say.

17 Senator Tunney. And the alternative cause of financing  
18 would be to put the burden in the first instance of raising the  
19 money on the Federal government and that they would then go to  
20 the users and pay back.

21 Senator Buckley. My understanding was that we are moving  
22 to the point where the users will pay for ..

23 Senator Buckley. It broadens the options, John, and I do  
24 feel that if the Federal government is compelling the plants  
25 then the Federal government ought to be sure that the money is



1 there somewhere.

2 Senator Randolph. If you would permit me to break the  
3 continuity of this discussion, it is because we have a quorum  
4 and because the leadership, as Senator Cooper knows, has really  
5 been urging us to stick on the rules of this committee. We have  
6 attempted from time to time to do it, but I felt that we should  
7 do it when there was a quorum of the committee present.

8 You will recall that you were given the suggested rules of  
9 procedure for the committee. You have all had the information.  
10 I do not know how carefully you have studied the proposals. I  
11 have given considerable time to this matter, personally, because  
12 I wanted to do it for the committee, not attempting to have my  
13 will to the points that we set forth in the rules but have some-  
14 thing that I felt was well reasoned that you might study.

15 Now, if you are in a position or if you have determined  
16 what you would like to do or if you have suggestions I felt that  
17 perhaps just the briefest time, Ed, and gentlemen, we might  
18 interpose this at this point. Senator Cooper? what would you  
19 feel?

20 Senator Cooper. I made some suggestions which I think  
21 have been incorporated.

22 Senator Randolph. They have been incorporated, yes. You  
23 were helpful and we incorporated the suggestions of John in  
24 reference to the minority. Now I have no desire to hasten this  
25 but it is now seven weeks that they have been after us.

1 Senator Muskie. Are there any changes in the rules we have?

2 Mr. Huyett. Yes, these are new rules, they are basically  
3 the rules we have had and these are in conformance with the  
4 Reorganization Act of last year. Actually the Only rules that  
5 we have published at the present time are those that are in the  
6 calendar which are very general.

7 Senator Muskie. Was there another set originally circulated?

8 Mr. Meyer. Yes, there was a prior circulation.

9 Mr. Huyett. The only changes in these and the ones circu-  
10 lated is in Rule 2 which one member of the minority would be  
11 present, and in Rule 5, which again has to do with quorums.

12 Mr. Meyer. And the language that was taken out that was  
13 rule 13 that required, that would say that no project could be  
14 considered by the committee unless it had an an environmental  
15 statement and a statement from the EPA under 309, both of which  
16 are statutory requirements.

17 Senator Muskie. It seems to me like you drop that and it  
18 will be looked at suspiciously, you know.

19 Mr. Huyett. The reason they were not in there is because  
20 it is already required by law.

21 Senator Muskie. then you don't lose anything by keeping  
22 it in?

23 Senator Randolph. I am glad to leave it in, there is no  
24 problem with me.

25 Senator Muskie. Just for appearances.

1 Mr. Huyett. It should be available before any project is  
2 approved.

3 Senator Muskie. I think we ought to have it in so there  
4 is no doubt as to the committee's intent.

5 Senator Randolph. Are you all agreed that it would be  
6 good to retain that?

7 Senator Baker. Is this a definitive statement of physio-  
8 logical condition that no member of Congress can have anything  
9 named after him until after he is 70, does that apply to some-  
10 thing we should know?

11 Senator Randolph. All I can say is you are all getting  
12 older.

13 Mr. Meyer. That was put in to defend the committee as a  
14 result of what happened at the tail end of the last Congress.  
15 We were blackjacked into naming two buildings for members who  
16 were serving in the House but who had lost their bids for reelection  
17 and we had no way of getting around the fact that we had  
18 to name buildings for them.

19 Senator Muskie. Mr. Chairman, I have no questions.

20 Senator Baker. I have one question, I don't think it is a  
21 problem, but in 6 it provides that proxy voting shall be allowed  
22 on all measures and matters before the committee and in the  
23 subcommittees.

24 A proxy given in writing shall be valid until revoked. I  
25 really believe that language is in conflict with the Congressional

1 Reorganization Act and it is my recollection that the Act pro-  
2 vides, one, that proxies must be in writing and, two, they must  
3 specify the matter on which the holder of the proxy can vote,  
4 and three, they are valid for no other purpose.

5 Senator Boggs. I think he is right.

6 Mr. Huyett. It has been spelled out that it could only be  
7 valid for a specific subject. Is it in there?

8 Senator Baker. It can't be a general subject, either, it  
9 has to be a bill, under the Act. Why don't we just check into  
10 that. We had the same situation in the Commerce Committee.  
11 You can go ahead and adopt it if you want to and if you can just  
12 get agreement that we conform that section.

13 Mr. Meyer. It says that no vote of any member of any such  
14 committee to report a measure or matter may be cast by proxy  
15 if the rules adopted by such committee forbid the casting of  
16 votes for that purpose by proxy.

17 However, proxies shall not be voted for such purpose except  
18 when the absent committee member has been informed of the matter  
19 on which he has been recorded and as affirmatively requested  
20 that he be so recorded.

21 Senator Baker. Are you sure this is the only rule relating  
22 to it?

23 Senator Randolph. That is what we are doing.

24 Mr. Meyer. We checked these out, that is why we put the  
25 rule in.

1 Senator Baker. I am not trying to obstruct it. If you  
2 want to pass it I will vote for it.

3 Senator Randolph. I am delighted to have it go over. That  
4 is why I say let's come back to the whole subject matter. I  
5 don't want to break in on this. I just felt that you had all  
6 been to 2 and we did that checking.

7 Senator Bentsen. Why don't we just go ahead and have it  
8 cleared up afterward. We have interrupted to consider this  
9 matter and had it before us for some time.

10 Senator Cooper. I don't want to delay it, we can all look  
11 these things over and if somebody else raises a question it  
12 sometimes stimulates other questions. Whatever that rule is  
13 under the Reorganization Act I think we will write it into con-  
14 form with the law.

15 Now to be clear here I want to look at these two sections.  
16 Rule 2, subcommittee meetings, shall be called by the chairmen  
17 of the respective subdommittees, the agenda business to be dis-  
18 cussed by the committee will be provided to all members 24  
19 hours in advance of the meeting.

20 Then on page 2, rule 8, announcement of hearings. I think  
21 what is missing in there is some kind of a notice to the members.  
22 I think we can avoid that problem if there is some notice. I  
23 admit that at some points you might have to have a quick meet-  
24 ing, but otherwise we are open to the same problem we had to  
25 begin with.



1 Senator Muskie. Why don't we say that notice of the meeting  
2 and agenda business to be discussed by the committee will be  
3 provided to all members 24 hours a day?

4 Senator Cooper. I think you have to give notice. I have  
5 no doubt at all about this committee, you know that, but I have  
6 seen some times when you don't get much notice.

7 Senator Muskie. Would that do, that notice of the meeting  
8 and agenda business would be provided to all members 24 hours  
9 in advance of the meeting?

10 Senator Cooper. Well, I think we ought to have notice.

11 Senator Muskie. 24 hours is not unreasonable.

12 Senator Cooper. If you meet and had unanimous agreement.

13 Senator Randolphy. I think it is a good precaution.

14 Senator Bentsen. If something comes up unexpectedly you  
15 can just have a waiver signed by all the members.

16 Senator Cooper. Or you might write it a majority of the  
17 majority and minority could agree upon that, we would surely  
18 have that many here. I don't think it is a practical problem  
19 but I do want to spell out a provision for notice and then if  
20 we have to waive that we can do it by say, a majority of the  
21 majority and minority present.

22 Senator Randolph. If you gentlemen would agree the Chairman  
23 would like to have the matter gone over. I don't want any ques-  
24 tions hanging in the air and that can easily take place when we  
25 do this spot checking. We just were hopeful that we could proceed

1 and I understand these points.

2 We will ask that you study our rules, if you can, you and  
3 your staff members, and be prepared hopefully in the next few  
4 days to go over other matters. That is the best way for us  
5 to proceed. Thank you, gentlemen.

6 Senator Muskie. There is one other question I would like  
7 to raise, just so we have all the information before us and then  
8 I would like to suggest a proposal for procedure. First of all  
9 it is a question of interest. The Buckley proposal is that the  
10 notes bear interest at the average rate available to municipal-  
11 ities for loans at the time the advance is made.

12 Is that all municipalities and, if so, how is it established,  
13 how is the rate established.

14 Senator Buckley. What was the provision, for the EFA, we  
15 have some standards there.

16 Senator Bentsen. We really didn't have a stand there.  
17 That was one of the problems we had in the opposition, because  
18 he wanted the administrator to have the judgment as to what the  
19 rate would be and he did throw something out in the way of a  
20 half point difference on interest rates or something that the  
21 comparable community would have had.

22 Mr. Billings. A quarterly posted rate of what would be  
23 reasonable.

24 Senator Baker. Two other alternatives that occur to me,  
25 one would be to tie it to the cost of the average cost of money

1 of the Treasury, and the other would be to leave some components  
2 of the interest cost rather than the whole interest cost up to  
3 the discretion of the Administrator.

4 Senator Muskie. In any case, whatever decision we make on  
5 it would be tied to EFA. So again you have the same thing. I  
6 would like to suggest, Mr. Chairman, that we might vote on  
7 these separate elements and maybe members have questions on other  
8 elements.

9 If we can agree on what the vote should be, then we can  
10 agree to consider all elements of the proposal.

11 Senator Buckley. May I just add one item to the proposal  
12 and this is in the event of the ultimate Federal move in there  
13 should be some penalty in the form of a service charge to be paid  
14 to the government to create a dis-incentive to them sitting on  
15 their hands.

16 Senator Muskie. Secondly, we will consider the definition  
17 of user charges, and when we vote on that we would be voting  
18 on it with respect to the subcommittee print or the Buckley pro-  
19 posal, then the definition of replacement would be the same in  
20 either case.

21 Thirdly, the question of the interest rate, and then finally,  
22 and this I think is the most serious one, whether or not  
23 we are going to provide for the Federal government to move in  
24 and establish the legal mechanism or institution with the  
25 authority to impose user charges on those communities which do

1 not move forward with their own plans with respect to which pro-  
2 viding facilities required by law.

3 Senator Randolph. Are you suggesting that we proceed  
4 now to the roll calls?

5 Senator Muskie. I think we ought to bring up the first  
6 issue and have whatever discussion the committee is interested  
7 in and proceed to the next one until we are through.

8 Senator Cooper. I want to address myself to the question,  
9 Senator Tu-ney raised. The consequences of either of these  
10 plans to the initiation of construction facilities, I assume that  
11 ordinarily there are no limitations on the definitions of reve-  
12 nues but in some states there may be somewhat ever it is, it  
13 your concern that this municipality which would have to go to  
14 the people for approval of a bond issue, and the question is  
15 whether or not they would adopt it, they would approve the bond  
16 issue.

17 I assume this situation to grant a loan with no debt limits  
18 involved, the council might say well, we will take a grant,  
19 we will take the loan. On the other hand if they have to go to  
20 the people then the amount of the user charges could very well  
21 be that the situation won't cover this.

22 No, is it correct to avoid the submission of the debt pro-  
23 posal like that to the people? In some cases it would expedite  
24 it, but also you avoid the ability of the people in terms of  
25 whether or not they want to submit to a certain user charge and

1 I don't think that is quite right.

2 I can see that in some cases you would expedite construction  
3 of facilities but they wouldn't accept the large grant and the  
4 loan obligation with user charges. In some cases your proposal  
5 would initiate and expedite the service. But on the whole is  
6 it right to impose a debt and user charge on them without their  
7 acceptance?

8 Senator Bentsen. That is by far the most far-reaching  
9 thing that has been proposed and the most dramatic change in the  
10 way we have done this and it really does involve a lot of rights  
11 of the citizenry. As far as the political consequences that  
12 Senator Tunney referred to, in effect what you have done, you  
13 have not varied a bit the charges which are going to be levied  
14 against the people, you have just avoided putting it to a vote  
15 of the people. I am concerned, frankly, with that far-reaching  
16 proposal.

17 Senator Muskie. Let me make another point, the mechanism  
18 adopted in the bill that is before us who require the development  
19 of implementation plans by the municipalities as well as indus-  
20 trial and ones implementation plans have been adopted by states  
21 they have adopted the responsibility to go forward.

22 We don't leave this issue untouched in the committee print.

23 Senator Buckley. What happens if in the last analysis the  
24 voters to whom this is submitted say, sorry, we won't do it? I  
25 think we are insisting that this be built or we are not. We are



1 saying certain hardware must be built in certain communities to  
2 meet certain specifications.

3 What happens if you take a sampling of the voters and if  
4 they vote not. Do put the ones who voted no in 'ail?'

5 Senator Muskie. I really think the two principal issues  
6 just raised by the Buckley proposal are, one, the extent of the  
7 Federal participation in the original cost of the facilities,  
8 and two, this very question we are discussing now, whether or  
9 not we are just going to say the Federal Government is going to  
10 move in and build these facilities by some date certain.

11 I think those are the two issues raised by the Buckley pro-  
12 posal and if we decide those and then if you decide unfavorably  
13 you will have the issues that we would have in any other case,  
14 modifying EPA, how we define user charges.

15 It would seem to me if we had those two issues and voted  
16 on them we could then get a position we wanted on the others.

17 Senator Randolph. Gentlemen, I am going to address the  
18 southern Governor's Conference on energy needs. I must leave  
19 now and I am prepared to vote on these matters and if so, dis-  
20 cuss them. But I want you, of course, to realize that even  
21 though I am not here, I am intensely interested in the subject  
22 matter that we have before the committee and I th nk we are  
23 moving in a well-reasoned way.

24 I will be here whenever I can. It is just a problem that  
25 we all have.

1 Senator Boggs. Where are they meeting this year?

2 Senator Randolph. This is the meeting of the Southern  
3 Governor's conference on transportation and commerce and they  
4 are meeting near Bethesda, in Maryland.

5 Senator Muskie. I wonder if you might inquire of the com-  
6 mittee whether it is ready to vote on these two questions. First  
7 on the question of Federal contribution. Since there are two  
8 proposals before us, one, Senator Buckley's of 30 percent, and  
9 two, the Administration's modified proposal of 55 percent, and  
10 three, the subcommittees proposal of 60 to 75 percent, it may  
11 be in view of the Buckley proposal we simply vote on this 30  
12 percent proposal at this point and then get to the second ques-  
13 tion of whether or not the Federal government should move in and  
14 build facilities as he has described it and as he has discussed  
15 it.

16 Senator Randolph. Jim, would that be agreeable? Is it  
17 agreeable to other members?

18 Senator Tunney. It is certainly agreeable to me to vote  
19 on the amount of the Government participation but as far as the  
20 mechanism that we are going to use to make sure that the plants  
21 are built, whether it will be the Federal government will move  
22 in, I would like to, if possible have a little more discussion  
23 on that.

24 Senator Baker. I have not said anything on that and frankly  
25 I have a great deal to say on it.

1 Senator Muskie. Can we vote on the first question and see  
2 where we go from there? I am not for foreclosing any discussion.

3 Senator Randolph. I don't want to hurry any process of  
4 voting. If you care to, if it is agreed that we vote on the  
5 situation as to the 30 percent why we can do it, if not, we will  
6 continue to discuss it.

7 Senator Boggs. When is our next meeting? We just received  
8 this last night, although we have been considering it.

9 Senator Muskie. We agreed earlier among those who were  
10 present that we would shoot for next Wednesday and try to meet  
11 in an all-day meeting.

12 Senator Randolph. That is what we are hoping to do, and  
13 have Ruckleshaus here.

14 Senator Baker. I am perfectly willing to vote piecemeal and  
15 there is nothing I could do about it, even if I weren't. But I  
16 think it ought to be clear, and I think all of us recognize the  
17 fact that while we may vote one way or one aspect of the pro-  
18 posal that the success or failure of subsequent proposals might  
19 have some bearing on our attitude of previous or later proposals.

20 I entirely reserve my rights to change my mind on any vote  
21 I cast in this respect. For instance, I expect I will probably  
22 vote for the 30 percent but I would not vote for 30 percent if  
23 it were not coupled with an effective 100 percent financing of  
24 technique. I expect I probably would vote for local intrusion,  
25 as an example, but I expect I would not do it without something

1 that satisfied me as to precisely what we were doing. There  
2 are a whole range of interrelated complexities that don't lend  
3 themselves to singling out or definition. So I will reserve my  
4 rights.

5 Senator Randolph. I am in complete agreement with what you  
6 are saying, your action on one often is coupled with another,  
7 I understand that, and you reserve the right as do all members  
8 to even alter their opinions as we work our will.

9 Senator Buckley. Certainly my suggestion of 30 percent is  
10 coupled with the Government taking on the obligation of taking  
11 over. I would agree that piecemeal it does not reflect the  
12 total view.

13 Senator uskie. May I make another point so my voters are  
14 clear? I would be prepared to go on the Buckley proposal as a  
15 whole. My suggestion as to voting on the elements of it was  
16 really to identify what I think are the differences, the real  
17 differences here between the Buckley proposal and the subcom-  
18 mittee print.

19 Because I think that the essence of the Buckley proposal  
20 are these two issues. If you vote on these two elements, then  
21 we put in perspective the essential issues of the Buckley pro-  
22 posal which may then put us in a better position to discuss  
23 as a whole.

24 Senator Baker. I wonder if there is any possibility of  
25 negotiating out a central position on this thing. I don't think

1 we have fully exhausted that possibility.

2 Senator Muskie. It seems to me it is hard to do that and  
3 have some guiding votes on the elements.

4 Senator Bentsen. You can certainly tie together the 30  
5 percent Federal Grant and 70 percent financing on the first  
6 vote.

7 Senator Muskie. The 70 percent financing is meaning less  
8 because; it doesn't add anything to the issue unless you have  
9 that mandatory Federal involvement.

10 Senator Baker. Yes, it does.

11 Senator Muskie. Let's not get into that now because I  
12 would like to have that first vote. I am telling you in my  
13 opinion if you take away mandatory Federal intervention then  
14 what you have is the central issue is the amount of the Federal  
15 grant on the initial cost.

16 I don't impose that view on anybody else but that is my  
17 analysis on the basis of what I understand it to be.

18 Senator Baker. I entirely disagree.

19 Senator Randolph. The Chair would like to say we need not  
20 take a vote at this time. I would say as your Chairman that we  
21 want to explore until we are agreed, at least, that we can move  
22 forward in the suggested several votes Senator Muskie has  
23 outlined.

24 But I would not want any member to feel that his thinking  
25 is foreclosed from further discussion, negotiation. We don't



1 have to take the vote now.

2 Senator Muskie. Not as far as I am concerned. I only make  
3 this point that time passes, we have been on this bill, we  
4 have now had a number of full committee sessions, and I can't  
5 recall a pollution bill in which we have had as thorough a going-  
6 over of the full committee as we are having after very thorough  
7 going over by the subcommittee.

8 The time is passing and a lot of the issues in this bill  
9 are being held up until we resolve some key points, this one and  
10 like Senator Tunney's question on what stand we impose, both  
11 perfectly legitimate.

12 I have no objection to discussing either or both untill the  
13 cons come home. But I want to impress on the committee if we  
14 are to get this to the Senate, through the Senate, and in the  
15 conference and through the Congress before this Congress adjourns  
16 we are going to have to make some decisions.

17 I say that not to build up a sense of urgency about a vote  
18 today, I am just thinking, and you can all disagree with me, that  
19 if we get some of these guiding votes that maybe we can then  
20 between now and next Wednesday on the whole, what we are trying  
21 to do is give the staff some time between now and next Wednesday  
22 to begin formulating some of the concepts that the votes give  
23 them guidance on.

24 Between now and then you can put together some decisions  
25 and reach some kind of compromise.

1 Senator Cooper. I think there is a lot of validity in what  
2 Senator Muskie is saying. It seems to me that if the Buckley  
3 proposal should be defeated on matching formulas we would come  
4 to some agreement on that. But I think Senator Buckley's pro-  
5 posal does raise the basic question which Senator Tunney raised  
6 and that is if the total burden of financing is left to the  
7 Federal government and the consequence of it is that in some  
8 cases at least you impose a facility with user charges upon a  
9 community rather than community having a chance to make a decision  
10 for it.

11 In my view of the process of government I don't like that.  
12 I have to vote against it because of that.

13 Senator Buckley. Senator Cooper, the committee print is  
14 going to impose user charges on a community, either way user  
15 charges will be imposed.

16 Senator Muskie. If the community chooses not to go forward  
17 it still has that option, so it has that decision. In other  
18 words, it has to make a positive decision knowing that when  
19 it does so it adopts user charges, it adopts the responsibility  
20 of the requirement of user charges.

21 There is that difference.

22 Senator Bentsen. I like the approach of breaking the  
23 amendment up because I think there are some things that could  
24 affect either one of the approaches to this. But there are  
25 those of us who feel that the 30 percent Government grant, that

1 as an integral part of it the 70 percent financing, whether it  
2 be modified EPA or not, and I don't see there is any thing to  
3 lose by coupling the two together so they don't have a quali-  
4 fied vote on the 30 percent part, if you consider the two parts  
5 as one, the question of the 70 percent financing plus the 30  
6 percent grant as one vote.

7 Senator Muskie. Are you talking of the issue which is  
8 raised by that as mandatory?

9 Senator Bentson. I still think that one is separate, there  
10 is a second issue. I think you could have a 30 percent grant  
11 and 70 percent financing and still not have it a mandatory thing.

12 Senator Muskie. My answer to that is we have already  
13 voted on the Federal financing of the community share.

14 Senator Bentsen. There is Federal financing of communities  
15 that haven't been able to finance their bond issues.

16 Senator Muskie. I am ready to vote on the issue in any com-  
17 bination and the subcommittee wants, if you want to say 30  
18 percent plus 70 percent Federal financing, whatever, with the  
19 questions as to what form the Federal financing takes, I have  
20 no problems with that.

21 Senator Tunney. Senator Muskie, there is also the possi-  
22 bility of the 70 percent grant and 30 percent financing possi-  
23 bility which gets to the question that, as you have raised, a  
24 central question, assuming that the Buckley proposal was not  
25 before us, how would we with the committee print solve the

1 problem of local inaction where you had a local government that  
2 just absolutely refuses to vote a bond issue to build a waste  
3 disposal plant when that community has been determined by a  
4 local implementation plan ---

5 Senator Boggs. It is not local, it is State.

6 Senator Tunney. And the Administrator of EPA to be out of  
7 compliance and to be a polluter, what are the mechanisms in the  
8 subcommittee print to force that local community to cough up the  
9 money?

10 Senator Muskie. the whole undermining of the Federal water  
11 pollution program was that there is a sharing of responsibility  
12 initial responsibility and the primary responsibility is at the  
13 State and local level. That is stated in the law.

14 Now what we are talking about with the subcommittee bill is  
15 enlarging the Federal role, the Federal responsibility, the  
16 Federal contribution and increasing the pressure upon State and  
17 local government and industrial polluters to conform to the  
18 requirements of clean water.

19 If in your questioning you are asking how does the Federal  
20 role completely meet that problem, I will say it doesn't, except  
21 to this extent, that this legislation imposes upon the state  
22 the responsibility for putting together an implementation plan  
23 that will meet the water quality requirements, whether they are  
24 measured by effluent standards or water quality standards of  
25 this law.

1 The State has resources, it has authority, it has respon-  
2 sibility, and we say here that if they don't provide an imple-  
3 mentation plan the Federal government will. So we have built  
4 up all the pressures that we can upon State and local government  
5 to fill in the program.

6 Now, if you want to assume the states don't have the  
7 resources to do this job, that it must be wholly Federal, that  
8 is a permissible approach. But what we do here, we don't leave  
9 that problem untouched, we put it in here and we impose the  
10 requirement for meeting the standard and that is the next ques-  
11 tion we will decide, how we do it.

12 But if we so it effectively and if states put together imple-  
13 mentation plans subject to the approval of the Administrator  
14 which are effective in doing that, then each state will have  
15 its own answer to that problem.

16 If, on the other hand, you require that this piece of legi-  
17 slation is an answer to that problem, then the Buckley approach  
18 is there.

19 Senator Cooper. May I be heard on that. On this question  
20 I think we are going to vote on this first other question first.  
21 But both plans proceed upon the assumption that a community  
22 will take action, a State community will take action and build  
23 a facility.

24 I think we have to consider this, I think there is a gap  
25 in here, where if you look at industry sources it would close



1 the industry down. But there is a question, we will get into  
2 it, what do you do about a community that is under Senator  
3 Buckley's proposal would not accept 70 percent loans or in the  
4 other proposal would not go into indebtedness and just doesn't  
5 do anything?

6 I will give you an example, a little town of Burnside, six  
7 miles from my town on the biggest man-made lake east of the  
8 Mississippi. It is a community of about 1,000 people, 1,200,  
9 built on a limestone bluff.

10 According to their engineering projections, their user  
11 charges are so great that the community will just not vote the  
12 obligations. They are dumping into this lake, and of course the  
13 industrial waste, and it needs to be shipped. So this is a  
14 problem.

15 I don't think this legislation addresses itself to because  
16 we are assuming that the states and the local governments will  
17 provide the money. But I think we have to proceed on that  
18 assumption and get a plan which will do the most and I think at  
19 some point you will have to argue out and see if there is a way  
20 that a community can be required to do it.

21 Senator Baker. May I say something in that respect? I  
22 understand the point Senator Cooper is making and I understand  
23 the locale he is discussing because it happens to be some few  
24 miles from his home and only some 40 miles from my home on the  
25 Tennessee side.

1 I think we are approaching a point of urgent primary  
2 importance. I think that the point Senator Cooper makes is  
3 one which we will have to address in somebody's bill sometime.  
4 That is we have simply provided this must be done but we have  
5 not provided how we see that it is done. We have provided all  
6 sorts of incentives but we have not provided an absolute require-  
7 ment that it be accomplished.

8 The existing statutes provide for implementation plans,  
9 studies, submissions, approvals, carrots and sticks and all  
10 those other good things ,but they don't ever require that a  
11 city for whatever reason, for lack of willingness to bond or  
12 tax or borrow or just plain bullheadedness won't build this  
13 facility.

14 In effect what we have done in our present legislation is  
15 give a veto authority to the City Council of the entire Federal  
16 water pollution control facility. That is of some urgent  
17 concern to those downstreamers who are asked to suffer the  
18 real consequences of pollution.

19 Senator Cooper is very right on another point. We can't  
20 just arbitrarily require that in default of performance that the  
21 Federal government will move in and build a facility and charge  
22 rates sufficient to amortize the cost regardless of what those  
23 rates are and saddle \$150 sewage charge on the residents of  
24 Burnside, Kentucky. That can't be done.

25 That is why throughout these conversations I have talked

1 about a combination package of loans, with grants, with forgive-  
2 ness of repayment, with subsidy of interest rates, and in the  
3 range of weapons in the economic arsenal that can be used on a  
4 case by case basis by the administrator to see that you accom-  
5 plish the two primary purposes, one, that we get the facility,  
6 so you stop the pollution by non-industrial sources and two,  
7 that a fair but not exorbitant share of that cost be borne by  
8 the users in the form of user charges without depending entirely  
9 or even partially on the overburdened ad valorem tax base.

10 That is one of the reasons why I have been inquiring, I  
11 hope discretely, about whether we can negotiate out some of  
12 these problems. Because I think we can build something with  
13 the Buckley mandatory requirement and out of the concern of  
14 Senator Cooper, and out of the point Senator Muskie makes about  
15 the necessity to avoid the undoing of what this committee has  
16 done over the past six years.

17 But I really don't think that we need to approach the  
18 voting on this with the idea that we have voting for Buckley  
19 or for Muskie or any other combination thereof. I think there  
20 is a great deal of good in both proposals and I think our pri-  
21 mary responsibility ought to combine the best interest of the  
22 subcommittee.

23 Senator Muskie. I will reemphasize what I said earlier.  
24 Either we assume the viability of the Federal system and the  
25 willingness to be responsible to this public need on the part of

1 the State and local government, or we don't.

2 Now, if we are going to assume that the State and local  
3 governments whether or not they have the will to do this, do  
4 not have the resources, then why fool around with the Federal  
5 system, with a Federal system as the most effective program.

6 If, on the other hand, we are willing to continue to assume,  
7 which I am, the viability or improved viability of State and  
8 local government in this respect, and the resources to do it  
9 with appropriated Federal supplementation of resources, then you  
10 have to leave some of this to the State and local authority.

11 If you want to build a Federal policy that assumes a failure  
12 to respond, then you might just as well step directly into a  
13 direct Federal program. I think that is the issue. I mean we  
14 all concede that local governments are not all economically  
15 viable, indeed in the lower range of size probably few of them  
16 are.

17 But the question is then do we move in to make them eco-  
18 nomically viable or do we impose some of that responsibility  
19 on State governments. If we are going to bypass State government  
20 then it is the responsibility to supplement local resources in  
21 this area. Then we can provide a Federal role somewhat similar  
22 to that proposed by Senator Buckley.

23 But if we are going to assume that the states will respond,  
24 especially if we have a Federal stick behind it, that the  
25 states will respond to implement their implementation plans,

1 and that those implementation plans were appropriated Federal  
2 supervision, will move in the direction of the standard we  
3 establish in the bill, that is another approach.

4 Senator Cooper. I don't propose we go ahead because of  
5 the number of isolated situations in the United States. I think  
6 we ought to go ahead on a program that everyone can agree upon  
7 to proceed on the assumption that most communities are going to  
8 get this.

9 So I am not proposing delaying action on this bill.

10 Senator Bentsen. I think Senator Cooper stated very well,  
11 I have deep concern about our going to that extent to try to  
12 overrule what the local government would do. I would like  
13 to presuppose that with these kinds of incentives that they would  
14 carry out the obligations of the Act.

15 I am quite ready to explore other avenues and coerce them  
16 gently that absolute government intervention in this type of  
17 thing I am really not ready for. If you will excuse me, I have  
18 to go.

19 Senator Muskie. Is the committee ready for a vote at any  
20 time? I still think it would be useful to the staff to have  
21 some idea of what the committee thinking is on this point.

22 Senator Cooper. I would suggest in substance what we may  
23 be voting on, first on Senator Buckley's proposal, is the question  
24 of whether we are voting on the 100 percent Federal program.

25 Senator Muskie. I think that is it.



1 Senator Tunney. Except the way it is going to be touched,  
2 as I understand it, whether we are in favor of the 30 percent  
3 Federal grant or 70 percent Federal grant or something in between.

4 Senator Buckley. That is a matter of detail. The funda-  
5 mental thing is do we try to tackle at this stage that contin-  
6 gency where there is a failure to implement and approve an imple-  
7 mentation plan.

8 Senator Buckley. Supposeing we just say my proposal was  
9 "X" percent low and the two equaling a hundred. I think this  
10 is a detail.

11 Senator Baker. One man's detail is another man's hangup.

12 Senator Muskie. We have a massive problem and to deal with  
13 requires tapping private sources and State and local resources  
14 as well as Federal. I don't know of any way of going the whole  
15 way and saying the Federal government will pick up this whole  
16 business.

17 Senator Buckley. I am just adopting the philosophy of the  
18 print that the user be subject -- he is the guy that will ulti-  
19 mately be required to pay the cost. I agree there has to be an  
20 escape hatch.

21 Senator Tunney. I think that the philosophy of this com-  
22 mittee in the responsibility of local and State government as  
23 well as the Federal government has been an excellent one. But  
24 the one thing I am deeply concerned about, and the reason I  
25 would like to see some kind of accommodation, if possible,

1 between the committee print and Senator Buckley's proposal, is  
2 that I have in my own congressional district a number of cities  
3 that I just know are not going to vote any additional bond  
4 issues to build waste treatment facilities.

5 I just know they are not. They have turned down every bond  
6 proposal for the last six years for education to children. In  
7 one of these cities the education of the children was being  
8 conducted in tents because the state came in and evaluated the  
9 construction of the buildings and determined under the appro-  
10 priate legislation of the State and regulations and standards that  
11 that they were unsafe.

12 So immediately a bond issue was put to the citizens of the  
13 community to build a new school and they turned it down and  
14 these kids are now being educated in tents. Now you see my  
15 feeling is that if they are going to vote against their own  
16 kinds to build schools for them I just can't see how they are  
17 going to vote for a bond issue to build a new sewage disposal  
18 plant.

19 Senator Muskie. It seems to me it is a logical conclusion,  
20 two logical conclusions. One, that you can somehow create by  
21 Federal legislation a positive citizen intent with respect to  
22 any of these policies, a piece of Federal legislation that is  
23 absent when you legislate the State and local.

24 If you say because there is evidence that the voters won't  
25 support taxes or bond issues that therefore the Federal

1 government must do the whole job what you are posing is monstrous  
2 Federal programs of financing schools, and higher education,  
3 waste treatment facilities.

4 You go across the board on all of them. And total State  
5 and local budgets at the present time are pretty close to  
6 matching the civil side with the Federal budget. You can't  
7 supply voter intent where it does not exist. I think we have to  
8 put pressures on State and local governments. I am all for  
9 exploring all the mechanisms that might do that but I am not  
10 quite prepared to go, because there are voters in my state that  
11 would also turn down referendums, for the University of Maine,  
12 referendums for highways, so the taxpayer revolt is very strong  
13 in this country now.

14 I don't think we are going to solve that problem in this  
15 piece of legislation as much as I would like to. I am all for  
16 leaving out the Federal role. We thought this bill was revo-  
17 lutionary in the subcommittee, that we accepted a 60 to 70  
18 percent Federal support roll in this program and it was, when  
19 you compare the program with what it was when I came to the  
20 Senate in 1959.

21 But now the question is do we go the whole way of Federal  
22 financing. And you say by God, we are going to bulldoze this  
23 through with a Federal bulldozer and this is the question. You  
24 can talk about the refinements of techniques but this is the  
25 basic philosophical question.

1 I am not going to push it for a vote today. It is obvious  
2 in the response to the committee of these issues that you are  
3 not ready for a clear-cut vote, you are looking for a fudge  
4 vote.

5 It is obvious that various members of the committee are  
6 trying to shape this vote. If we can't agree on the form of the  
7 question then it is obvious that the result will be meaningless.  
8 So unless somebody else is willing to get behind this, I think  
9 a clarifying vote of some sort would be helpful.

10 If you can't agree on a way to shape that clarifying vote  
11 there is notpoint in pressing it.

12 Senator Boggs. Mr. Chairman, I am not very good on talking  
13 these various points here today. But I think both sides have  
14 made the major points on the Buckley proposal and the committee  
15 prints and the Administration proposal of 55 percent as far as  
16 the grant percentage is concerned.

17 I am concerned, myself, about the Federal government just  
18 totally taking over in this field. It has been a concern of  
19 mine since 1963 on this committee, and I have worked for it,  
20 trying to keep the local community and the counties and even  
21 the special sewer districts in the picture, the local authorities,  
22 and the State authorities. That was our initial problem.

23 I remember the testimony, we had it day after day, of  
24 industry and State people and everybody coming before this  
25 committee and making that their major points. Come to our

1 offices afterwards and just see we are vitally concerned about  
2 that. I think that is important. And since 1963, in my own  
3 area of observation, in my own state, I really think that local  
4 municipal and country government has really moved forward  
5 tremendously on this.

6 I think the citizenry has moved forward on this area and  
7 water pollution and solid waste problem. I think they are really  
8 concerned about it now. I imagine any policy you would take  
9 would put it as almost the top priority item along with their  
10 concerns along with education for children, and so forth.

11 So I am not worried as far as the big percentage of the  
12 communities are concerned, but what they will go forward with  
13 this, given a reasonable Federal grant, and if they can't  
14 finance their bonds, a place to go, EPA, for example.

15 But I still do think it is important as even in the 90-10  
16 highway program for the local government to have some respon-  
17 sibility, all the responsibility you can leave to them and still  
18 assist them with their basic problem which is a financing problem,  
19 which is what we are doing.

20 And this revenue sharing concept that we are talking about  
21 now, and the counties and cities and everybody is pushing for,  
22 it seems to me a larger grant which would justify my vote up  
23 to the 55 or 60 percent grant or even the committee print pos-  
24 sibly, is in that direction in this point of time in the prob-  
25 lems of the local community.



1 I don't think the job can be done if the Federal government  
2 is going to have to take it over and do it. I think we have to  
3 rely on the local communities and the states to eventually get  
4 the job done.

5 I have said from the very beginning that I think Senator  
6 Buckley and Senator Baker both are great in exploring this and  
7 coming forward with this suggestion. It helps us to see better  
8 what we are doing, to weigh all aspects of the thing.

9 he pros and cons of it are all important, Senator Cooper.  
10 There are arguments for it as well as arguments against it, I  
11 think. But essentially I have said that the Federal government  
12 would sooner or later just be forced to take over the whole  
13 thing.

14 As a matter of fact, somebody would be coming in and putting  
15 in a bill before long to wipe the slate clear on the debt and  
16 the Federal government take it over and it would be a totally  
17 Federal program.

18 I think under our federal system that we would be weakening  
19 our Federal system on that. Although, Senator, I must say that  
20 to create a fund to get the thing going, and have absolutely  
21 no excuse to turn it down, is very attractive.

22 But I think as attractive as that is the other aspects of  
23 it which I have mentioned, which have all been mentioned here,  
24 are part of our basic system that we have to try to preserve and  
25 strengthen as we go along.

1 Senator Buckley. I think, Mr. Chairman, at least I suspect  
2 there is not unanimity of agreement on my proposal, that it has  
3 dramatized, I hope, certain problems with the existing one. If  
4 Senator Baker will allow me, I will withdraw it.

5 We now have some more ideas floating around that I think  
6 we will have to cope with at one point or another.

7 Senator Muskie. I say first of all I would like to focus  
8 on the points that has been made in your proposal, and that is  
9 that there is no explicit State role shaped up in the proposal  
10 as it now stands.

11 I have no objection to that, Heavens, I have enough proxys  
12 where to carry any vote I wanted this morning. But that gives  
13 no satisfaction, because that does not resolve it and all that  
14 means is a lot of people who are not here in this room who have  
15 not had the benefit of the discussion are willing to trust in  
16 my judgment to cast a vote and I see no point in pressing that.

17 I would like to suggest, one, that if Sena or Buckley has  
18 contemplated a modified proposal that we make it available to  
19 the staff as soon as possible, two, that his staff and Senator  
20 Baker's staff and anyone else try to frame a series of two  
21 questions that we might vote on, the form of which we could  
22 agree upon.

23 What we have to do is identify the key issues so that we  
24 can resolve them to write a bill. If we fence with each other  
25 over the table on the shape of the questions we are going to

1 get nowhere, we will be here until Christmas.

2 But if we can agree on what is important, hopefully by next  
3 Wednesday on the shape of the questions that will highlight and  
4 identify the key elements we can then give the staff some gui-  
5 dance on writing the law, that will be extremely helpful.

6 It is clear to me now we have not given that enough potential  
7 Everybody will interpret the voting a different way and we will  
8 get nowhere. But if we can do that by next Wednesday it will  
9 be very helpful and if it relates to a modified Buckley proposal,  
10 that is fine.

11 I am not sticking anybody with any form of proposal. But  
12 I would hope out of the discussion we have had this morning  
13 there is a clear enough indication of what the key points of  
14 difference are.

15 We will shape the question and vote on it next time without  
16 foreclosing on anybody's right to discuss anything. Is that  
17 acceptable to everybody? I think it is pointless to try to get  
18 to anything else in the 10 or 15 minutes that is left, so may I  
19 thank you all for what I hope has been a very productive session.

20 (Whereupon, at 12:10 the committee adjourned, to reconvene  
21 subject to call of the Chair.)  
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